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8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

10 ROBERT HOLMES, III,

11 Petitioner,

12 vs.

13 BRIAN WILLIAMS, *et al.*,

14 Respondents.
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Case No. 2:15-cv-01755-GMN-GWF

ORDER

16
17 Petitioner Robert Holmes, III has submitted a petition for writ of habeas corpus, pursuant to 28
18 U.S.C. § 2254 (ECF No. 1-2). His application to proceed *in forma pauperis* (ECF No. 1) is granted.
19 His petition shall be dismissed, however, as second and successive.

20 Holmes indicates on the face of his petition that he challenged the same judgment of
21 conviction—Case No. 08C247085—in a previous action filed in this court: 2:12-cv-00354-KJD-RJJ. In
22 that case, this court denied the habeas petition, and the Ninth Circuit denied petitioner’s request for a
23 certificate of appealability (2:12-cv-00354-KJD-RJJ, ECF Nos. 3, 39). This habeas petition is,
24 therefore, a second or successive habeas corpus petition. *Henderson v. Lampert*, 396 F.3d 1049, 1053
25 (9th Cir. 2005). Petitioner was required to obtain authorization from the court of appeals before he could
26 proceed with a second or successive petition. 28 U.S.C. § 2244(b)(3). While petitioner acknowledges
27 the previous petition on the face of the current petition, he does not indicate that he has obtained such
28 authorization. This petition is subject to dismissal as second and successive.

1 Reasonable jurists would not find this conclusion to be debatable or wrong, and the court will
2 not issue a certificate of appealability.

3 **IT IS THEREFORE ORDERED** that petitioner's application to proceed *in forma pauperis*
4 (ECF No. 1) is **GRANTED**.

5 **IT IS FURTHER ORDERED** that the Clerk shall **DETACH** and **FILE** the petition (ECF No.
6 1-2).

7 **IT IS FURTHER ORDERED** that the petition is **DISMISSED** with prejudice as a successive
8 petition.

9 **IT IS FURTHER ORDERED** that a certificate of appealability is **DENIED**.

10 **IT IS FURTHER ORDERED** that the Clerk shall **ENTER JUDGMENT** accordingly and
11 close this case.

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14 Dated this 19 day of October, 2015.

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18 Gloria M. Navarro, Chief Judge
19 United States District Court
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